



City of Rochester

Department of Law
City Hall Room 400A, 30 Church Street
Rochester, New York 14614-1295
www.cityofrochester.gov

Patrick Beath
Deputy Corporation Counsel

*Matter is stayed unt. 12/20/2020
or unt. 1 further order by the Court*

October 22, 2020

BY ECF

Hon. Frank P. Geraci, Jr.
Chief United States District Judge
U.S. Courthouse
100 State Street
Rochester, New York 14614

SO ORDERED THIS 22nd DAY OF Oct 2020

Re: *Prude v. City of Rochester, et al.*
6:20-cv-6675 (FPG)
HON. FRANK P. GERACI, JR.
Chief U.S. District Judge

Your Honor:

I represent the defendant City of Rochester in this matter. I write to provide the Court a copy of the October 20, 2020 Order from the Monroe County Surrogates Court that indefinitely suspended the limited letters of administration previously issued to Tameshay Prude concerning the Estate of Daniel Prude. The instant action was commenced by Ms. Prude based upon her authority to represent the Estate pursuant to said letters of administration.

As the Court is aware, the City previously requested that its time to answer be stayed until such time as any issues concerning the proper administrator of the Daniel Prude Estate were resolved; in response, the Court extended to November 9, 2020 the time for all defendants to respond to the complaint. It now appears that, as of the date of issuance of the enclosed Order, plaintiff Tameshay Prude no longer has capacity to prosecute this case on the Estate's behalf. *See* FRCP 17(a)(providing that a suit is to be maintained by the real party in interest and listing administrators or executors as those with capacity to sue); *Purcell ex rel. Estate of Tyree v. City of N.Y.*, No. 18-CV-3979 (PKC) (RLM), 2020 U.S. Dist. LEXIS 89130, at *13 (E.D.N.Y. May 19, 2020)(observing that an administrator's capacity to sue hinges on the issuance of letters of administration by the Surrogate's Court). Accordingly, I ask that the Court stay the instant proceeding its entirety until such time as the plaintiff's suspension as Estate Administrator is lifted, or a new administrator is named and substituted into this action.

Respectfully submitted,

/s/

Patrick Beath
Deputy Corporation Counsel

cc: Donald M. Thompson (By ECF)
Elliot Dolby Shields (By ECF)
Attorneys for Plaintiff

